

Sullivan, R.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x

JOHN LIU and FRIENDS OF JOHN LIU,

Plaintiffs,

- against -

THE NEW YORK CITY CAMPAIGN FINANCE  
BOARD, ROSE GIL HEARN, and THE CITY OF NEW  
YORK,

Defendants.  
----- x

USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>5/22/14</u>
---

**STIPULATION AND ORDER  
OF DISCONTINUANCE AND  
DISMISSAL WITH  
PREJUDICE OF  
PLAINTIFFS' THIRD  
CLAIM FOR RELIEF**  
14 Civ. 1687 (RJS)

**WHEREAS** plaintiffs John Liu and Friends of John Liu ("Plaintiffs") commenced this action by filing a complaint in the United States District Court for the Southern District of New York on or about March 12, 2014 ("the Complaint") alleging various claims against defendants the New York City Campaign Finance Board, Rose Gill Hearn, and the City of New York ("Defendants");

**WHEREAS** the Third Claim For Relief in the Complaint challenges the appointment of Ms. Hearn as Chairperson of the New York City Campaign Finance Board ("CFB") on or about December 30, 2013;

**WHEREAS**, with regard to the Third Claim For Relief, the Complaint seeks to enjoin Ms. Hearn "from purporting to exercise any enforcement powers with respect to penalizing Plaintiffs";

**WHEREAS**, in January 2014, before the commencement of this action, Ms. Hearn recused herself, for reasons relating to her prior role as Commissioner the New York City

Department of Investigation ("DOI"), from all matters to be considered by the CFB concerning John Liu (the "voluntary recusal");

**WHEREAS** Ms. Hearn's voluntary recusal provides Plaintiffs with all the relief Plaintiffs sought in the Third Claim For Relief in the Complaint;

**WHEREAS** Defendants deny any and all liability arising out of Plaintiffs' allegations; and

**WHEREAS** Plaintiffs and Defendants now desire to discontinue the Third Claim For Relief without further proceedings and without admitting any fault or liability concerning the Third Claim For Relief;

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, as follows:

1. The Third Claim For Relief in the above-referenced action is hereby discontinued, with prejudice, and without costs, expenses, or fees.

2. Consistent with her voluntary recusal, Rose Gill Hearn hereby agrees to have no involvement in the CFB's audit of the Plaintiffs' campaign in the 2013 Democratic primary for mayor of New York City and to have no involvement in the direction of the defense of the above captioned action.

3. Notwithstanding the recusal described in Paragraph "2," above, this Stipulation and Order shall have no effect upon, nor shall it be construed to limit in any way, Ms. Hearn's rights and responsibilities as Chairperson of the CFB, including, *inter alia*, her right to be involved in any decision-making process or in the development of any recommendations concerning present or future CFB laws, rules, regulations, policies or practices of general application.

4. In consideration for the commitment set forth in Paragraph "2," above, Plaintiffs hereby dismiss and discontinue with prejudice all claims against the New York City Campaign Finance Board, Rose Gill Hearn, the City of New York, and their successors and assignees and all past and present officials, employees, representatives, and agents of the CFB, Rose Gill Hearn, or the City of New York that relate to or were asserted in the Third Claim for Relief in the Complaint.

5. Also in consideration for the commitment set forth in Paragraph "2," above, Plaintiffs agree to remove Ms. Hearn as a defendant from the caption of the case, and the parties agree that when this Stipulation and Order is signed by the Honorable Richard J. Sullivan the caption of the case will be amended, pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure, to read as follows:

-----  
JOHN LIU and FRIENDS OF JOHN LIU,

Plaintiffs,

- against -

THE NEW YORK CITY CAMPAIGN FINANCE BOARD and THE CITY OF NEW YORK,

Defendants.  
-----

6. Nothing contained herein shall be deemed to be an admission by the CFB, Ms. Hearn, the City of New York, or any of their officers, employees, representatives, or agents of any of the Plaintiffs' allegations in the Complaint nor an admission that the CFB, Ms. Hearn, the City of New York, or any of their officers, employees, representatives, or agents have in any manner or way violated Plaintiffs' rights, or the rights of any other person or entity, as defined in the constitutions, statutes, ordinances, rules or regulations of the United States, the State of New

York, or the City of New York or any other rules, regulations, or bylaws of any department, agency, or subdivision of the City of New York, including but not limited to the New York City Campaign Finance Board.

7. This Stipulation and Order shall not be admissible in, nor is it related to, any other litigation or settlement negotiation, except for enforcement of the provisions contained herein.

8. Nothing contained herein shall be deemed to constitute a policy or practice of the City of New York or any of its agencies.

8. This Stipulation and Order contains all the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation and Order regarding the subject matter of the instant action shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

Dated: New York, New York  
May 20, 2014

EMERY, CELLI BRINCKERHOFF &  
ABADY LLP  
Attorney for Plaintiffs  
75 Rockefeller Plaza, 20<sup>th</sup> Floor  
New York, NY 10019  
212 763 5000

By:


  
RICHARD D. EMERY

ZACHARY W. CARTER  
Corporation Counsel of the  
City of New York  
Attorney for Defendants  
100 Church Street, Room 2-110  
New York, New York 10007  
212 356 0872

By:

  
THOMAS B. ROBERTS

SO ORDERED:

  
RICHARD J. SULLIVAN  
United States District Judge  
Dated: May 21, 2014